



January 14, 2004

SENATE BILL No. 176

DIGEST OF SB 176 (Updated January 12, 2004 11:55 am - DI 102)

Citations Affected: IC 3-8; IC 5-8.

Synopsis: Loss of office by convicted official. Conforms the time for a public official's removal from office with a provision in the election law concerning disqualification from holding or being a candidate for an elected office to the time the court pronounces the sentence for conviction of a felony.

Effective: July 1, 2004.

Lawson C

January 6, 2004, read first time and referred to Committee on Elections and Civic Affairs.
January 13, 2004, reported favorably — Do Pass.

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SB 176—LS 6714/DI 102+



January 14, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

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SENATE BILL No. 176



A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-8-1-5, AS AMENDED BY P.L.176-1999,
- 2 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2004]: Sec. 5. (a) This section does not apply to a candidate
- 4 for federal office.
- 5 (b) A person is disqualified from holding or being a candidate for
- 6 an elected office if the person:
- 7 (1) gave or offered a bribe, threat, or reward to procure the
- 8 person's election, as provided in Article 2, Section 6 of the
- 9 Constitution of the State of Indiana;
- 10 (2) does not comply with IC 5-8-3 because of a conviction for a
- 11 violation of the federal laws listed in that statute;
- 12 (3) has:
- 13 (A) entered a plea of guilty or nolo contendere to; or
- 14 (B) been convicted of;
- 15 a felony (as defined in ~~IC 35-50-2-1~~); **IC 35-50-2-1(b)**), and the
- 16 **court has pronounced the sentence for the felony;**
- 17 (4) has been removed from the office the candidate seeks under

SB 176—LS 6714/DI 102+



1 Article 7, Section 11 or Article 7, Section 13 of the Constitution
 2 of the State of Indiana;
 3 (5) is a member of the United States armed forces on active duty
 4 and prohibited by the United States Department of Defense from
 5 being a candidate; or
 6 (6) is subject to:
 7 (A) 5 U.S.C. 1502 (the Little Hatch Act); or
 8 (B) 5 U.S.C. 7321-7326 (the Hatch Act);
 9 and would violate either federal statute by becoming or remaining
 10 the candidate of a political party for nomination or election to an
 11 elected office or a political party office.
 12 SECTION 2. IC 5-8-1-37 IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2004]: Sec. 37. (a) As used in this section:
 14 "Felony" means any crime punishable by imprisonment for more
 15 than one (1) year in any correctional facility. **has the meaning set**
 16 **forth in IC 35-50-2-1(b).**
 17 "Public officer" means any person, elected or appointed, who holds
 18 any state, county, township, city, or town office.
 19 (b) Any public officer convicted of a felony during ~~his~~ **the officer's**
 20 term of office shall:
 21 (1) be removed from office by operation of law when ~~he~~ **is**
 22 ~~sentenced for the felony;~~ **the court pronounces the sentence for**
 23 **the felony;** and
 24 (2) not receive any salary or remuneration from the time ~~he~~ **is**
 25 ~~sentenced for the felony;~~ **the court pronounces the sentence for**
 26 **the felony.**
 27 (c) If the conviction is reversed, vacated, or set aside, and the
 28 officer's term has not expired, the officer shall:
 29 (1) be reinstated in office; and
 30 (2) receive any salary or other remuneration which ~~he~~ **the officer**
 31 would have received had ~~he~~ **the officer** not been removed from
 32 office.
 33 (d) If the conviction is reversed, vacated, or set aside, and the
 34 officer's term has expired, ~~he~~ **the officer** shall receive any salary or
 35 other remuneration which ~~he~~ **the officer** would have received had ~~he~~
 36 **the officer** not been removed from office.
 37 (e) Every vacancy in a public office caused by the removal of a
 38 public officer under this section shall be filled as provided by law. If a
 39 convicted public officer is reinstated, the person filling the office
 40 during the appeal shall cease to hold the office.

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 176, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 176 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 6, Nays 0.

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